

EXHIBIT 1

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Superior Court of California,
County of Los Angeles
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Executive Officer/Clerk of Court,
By J. Covarrubias, Deputy Clerk

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES**

14
15 JANE DOE, on behalf of
herself and all others similarly situated,

16 Plaintiff,

17 Vs.

18 PHE, INC. and GOOGLE LLC

19 Defendants.

20 CASE NO. **24STCV00181**

21 CLASS ACTION COMPLAINT FOR:

22 1. Violation California Invasion of Privacy Act,
Cal. Penal Code §§630-638.55

23 JURY TRIAL DEMANDED

24 **NOTICE TO DEFENDANTS OF DUTIES TO RETAIN EVIDENCE:**

25 TO ALL DEFENDANTS: Note and adhere to your duties to retain, and not delete or
26 destroy, all documents, emails, databases, electronic records, electronically stored information,
27 and all other evidence that may be pertinent to this lawsuit, and to cease any destruction or deletion
28 of such evidence that might otherwise take place in the ordinary course of your business or affairs.

1 Plaintiff Jane Doe, by and through her attorneys, for her Complaint against Defendants
2 PHE, INC. (“PHE”) and GOOGLE LLC (“Defendants”) states as follows:

3 **INTRODUCTION**

4 1. Plaintiff, on behalf of herself and all others similarly situated (“Plaintiff”), brings
5 this class action due to Defendants’ disclosure and communications regarding Plaintiff’s private
6 and protected sexual information along with her IP addresses without her consent including but
7 not limited to:

8 a. Sexual preferences;
9 b. Sexual orientation;
10 c. Sexual practices;
11 d. Sexual fetishes;
12 e. Sex toy preferences;
13 f. Lubricant preferences; and
14 g. Search terms.

15 (collectively, “**Private and Protected Sexual Information**”)

16 2. Specifically, Defendant PHE caused Google to learn the contents of Plaintiff’s
17 Private and Protected Sexual Information along with Plaintiff’s IP address between her and
18 Defendants without consent.

19 3. Plaintiff is a consumer of PHE’s website, www.adameve.com (the “Website”)
20 which sells adult products.

21 4. When Plaintiff used Defendant’s Website, information that revealed her Private and
22 Protected Sexual Information and IP address was provided to Google without notifying her and
23 without her consent.

24 5. Defendant PHE violated section 631(a) of the California Invasion of Privacy Act,
25 Cal. Penal Code §§ 630-638.55 (the “CIPA”) each time it disclosed Plaintiff’s Private and
26 Protected Sexual Information.

27 6. Defendant Google violated section 631(a) of CIPA each time it read, learned from,
28 and/or utilized Plaintiff’s Protected Sexual Information without Plaintiff’s consent.

7. Both Defendants violated section 631(a) of CIPA by operating under an agreement whereby PHE installed Google Analytics to disclose to Google Plaintiff's Protected Sexual Information without Plaintiff's consent in exchange for payment or another form of consideration;

8. Pursuant to section 637.2(a)(1) of the CIPA, Defendants are liable to Plaintiff for statutory damages in the amount of \$5,000 for each disclosure of Plaintiff's Private and Protected Sexual Information.

PARTIES

9. Plaintiff is an individual that is over 18 years old and resides in Los Angeles County, California. Plaintiff is a consumer of Defendant's Website.

10. Defendant PHE, Inc. is a North Carolina corporation with its principal place of business at 302 Meadowlands Dr. Hillsborough, NC 27278. Defendant developed, owns, and/or operates the Website.

11. Defendant Google, LLC is a Limited Liability Company organized under Delaware law with its principal place of business at 1600 Amphitheatre Parkway, Mountain View, CA 94043.

JURISDICTION AND VENUE

12. Plaintiff is a citizen and resident of California.

13. Defendant Google is a citizen of California because it maintains its principal place of business in the State of California.

14. Defendant PHE is a North Carolina corporation that does substantial business in California, including but not limited to the acts described herein.

15. This court has jurisdiction under California Code of Civil Procedure § 410.10. Plaintiff's damages exceed the jurisdictional minimum of this Court.

16. The Court has subject matter jurisdiction over the claims which all arise under California law.

17. Venue is proper in this judicial district, pursuant to California Code of Civil Procedure § 395(a) as the injury sustained by Plaintiff as a result of Defendants' actions occurred in Los Angeles County.

GENERAL ALLEGATIONS

18. Defendant PHE is the owner of Adam & Eve/the Website¹ which is the largest adult product marketer in the United States.

19. Thousands of California residents visit PHE's Website each year.

20. Consumers use PHE's Website to purchase adult products, including sex toys for men and women, bondage equipment, S&M products, lubricants, lingerie, and more.

21. PHE's Website collects various information about its consumers including, but not limited to Private and Protected Sexual Information relating to the consumers' sexual life and sexual orientation, along with their IP addresses to Google. An IP address is a number that identifies a specific device connected to the Internet and its geolocation.

Google and Google Analytics

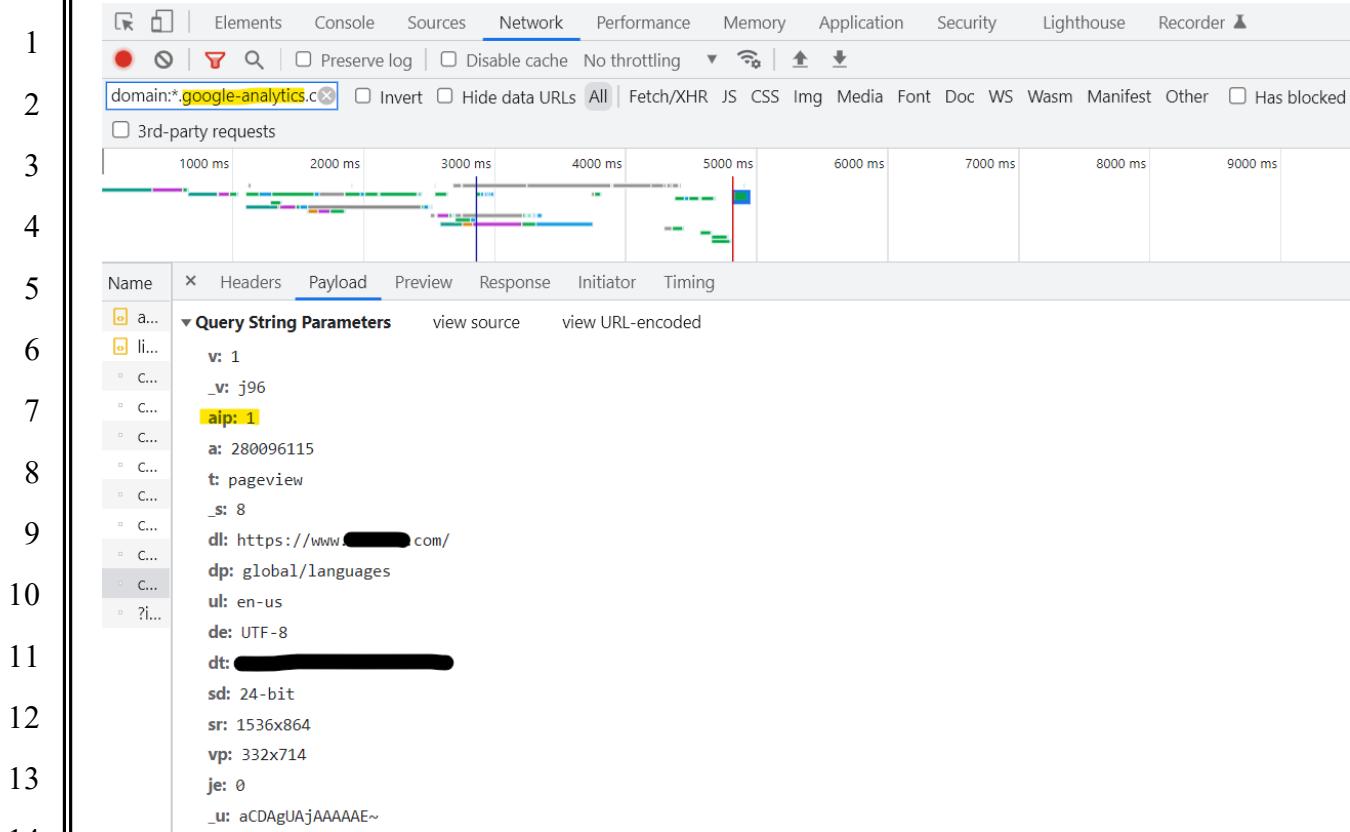
22. PHE's Website sends Plaintiff's Private and Protected Sexual Information to Google using "Google Analytics."

23. Google Analytics is a web analytics service, which allows website owners to track visitor actions on their website in order to target them with personalized advertisements. Google Analytics collects IP addresses of individual internet consumers in order to facilitate and track internet communications. Simply put, Google can use the information that PHE is disclosing in order to identify a specific consumer's actions on the Website.

24. Google Analytics offered PHE an opt-in IP anonymization feature for the Website. According to Google, this feature is designed to help site owners comply with their own privacy policies and the recommendations of data protection authorities.

25. PHE enabled the opt-in IP anonymization feature, which allowed an additional parameter to be added to the communications between Plaintiff, as the website visitor, and the Google Analytics server defined as aip=1 as shown below:

¹ <https://www.adameve.com/t-privacy.aspx> (accessed May 24, 2023).



26. Accordingly, when the “aip” parameter does not appear, the IP address is not anonymized, enabling Google to identify the consumer’s IP addresses and their online actions.

27. PHE does not enable the IP anonymization feature on its website. This is demonstrated by the absence of the “aip” parameter, as shown in the image below:

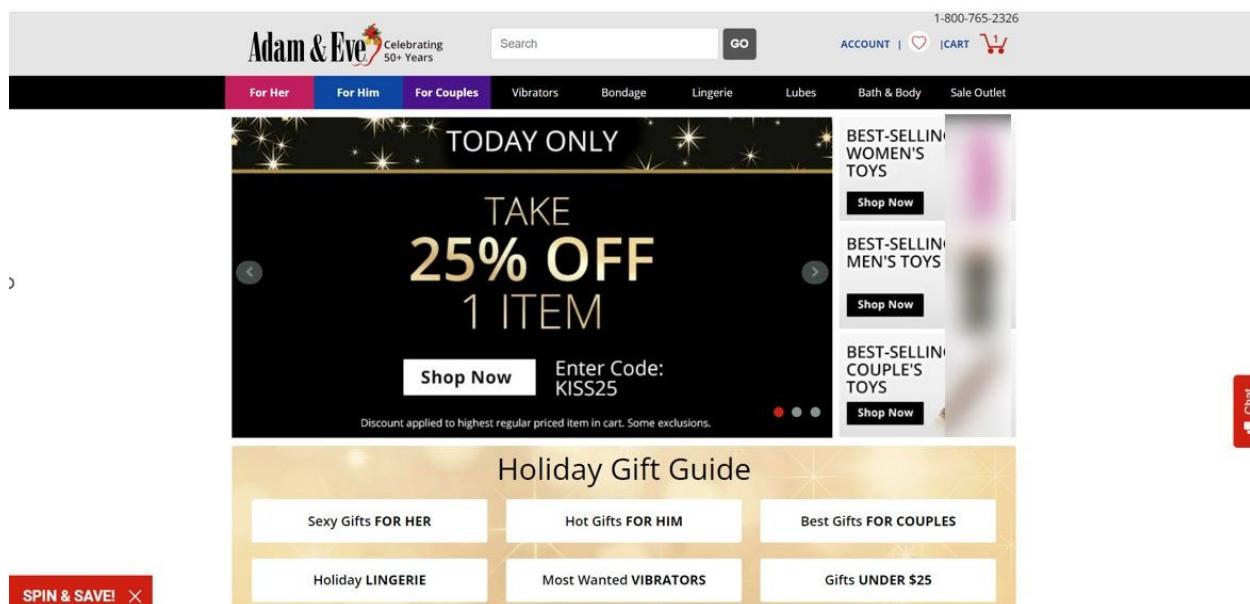
20 ///
21 ///
22 ///

1 ▼ Query String Parameters [view source](#) [view URL-encoded](#)
2 v: 1
3 _v: j98
4 a: 10888890873
5 t: event
6 ni: 1
7 _s: 1
8 dl: <https://www.adameve.com/shoppingcart.aspx>
9 ul: en-us
10 de: UTF-8
11 dt: Adam & Eve Sex Toy Store | #1 Source for Adult Toys Online
12 sd: 24-bit
13 sr: 2560x1440
14 vp: 1362x1289
15 je: 0
16 ec: Ecommerce
17 ea: Checkout Step
18 _u: SCCAAAAALAAAAAAAM-
19 jid:
20 gjid:
21 cid: 1302355991.1671549814
22 tid: UA-1283698-9
23 _gid: 422031894.1671549814
24 gtm: 2wgbu056RXBQ
25 cos: 1
26 pa: checkout
27 pr1id: 319X
28 pr1nm: Adam Eve Silicone G-Gasm Rabbit
29 pr1pr: 69.95
30 pr1br: Adam and Eve
31 pr1ca: 1046
32 pr1qt: 1
33 pr1va: 6200
34 pr1cd10: 60
35 pr1cd11: In Stock
36 pr1cd13: 3.60
37 pr2id: 873X
38 pr2nm: Vibrator Accessory Kit
39 pr2pr: 14.95
40 pr2ca: ADDON_KIT
41 pr2qt: 1
42 pr2va: 0000
43 pr2cd10: 50
44 pr2cd11: In Stock
45 pr2cd13: 4.25
46 il1nm: YMAM_CART
47 il1pi1id: 128X
48 il1pi1ps: 1
49 il1pi1nm: Westinghouse AAA Batteries 4-Pack
50 il1pi1pr: 5.95
51 il1pi1br: Batteries and Things
52 il1pi1ca: Sex Toys/Batteries and Accessories
53 il1pi1cd1: 50
54 il1pi1cd2: 01
55 il1pi1cd5: 0
56 il1pi1cd7: In Stock
57 il1pi1cm2: 4.4
58 il1pi1cd23: 5.95
59 il1pi1cm4: 250
60 il1pi1cm5: 5.95

1 28. By using the Google Analytics tool without anonymized IP feature, PHE is sharing
 2 with Google Plaintiff's online activity, along with her IP addresses, even when consumers have
 3 not shared (nor have consented to share) such information.

4 29. The moment Plaintiff entered PHE's Website, Plaintiff's interaction with the
 5 Website is immediately and automatically sent directly to Google as depicted below:

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16 METHOD: POST +

17 URL

18 + https://www.google-analytics.com/g/collect?v=2&tid=G-9EEVV2EFZ4>m=2oebu08_p=583548728cid=725432500.1671554204&ul=en-us&sr=1536x864&uaa=x86&uab=64&uafvl=Not%253FA_Brand%3B8.0.0.0%7CChromium%3B108.0.5359.124%7CGoogle%2520Chrome%3B108.0.5359.124&uamb=0&uam=&uap=Windows&uapv=14.0.0&uaw=0&s=1&uid=2d3039f7-fef4-4bf0-be1a-00d653ad68be&sid=1671554209&ct=1&seg=0&d1=https%3A%2F%2Fwww.adameve.com%2F&dt=Adam%20%26%20Eve%20Adult%20Toy%20Store%0%7C%20Best%20Sex%20Toys%20For%20Men%20%26%20Women&en=page_view&fv=1&ss=1&up.userID=2d3039f7-fef4-4bf0-be1a-00d653ad68be

20

21

22

23

24 HEADERS

25 + accept: */*

26 + accept-encoding: gzip, deflate, br

27 + accept-language: en-US, en; q=0.9

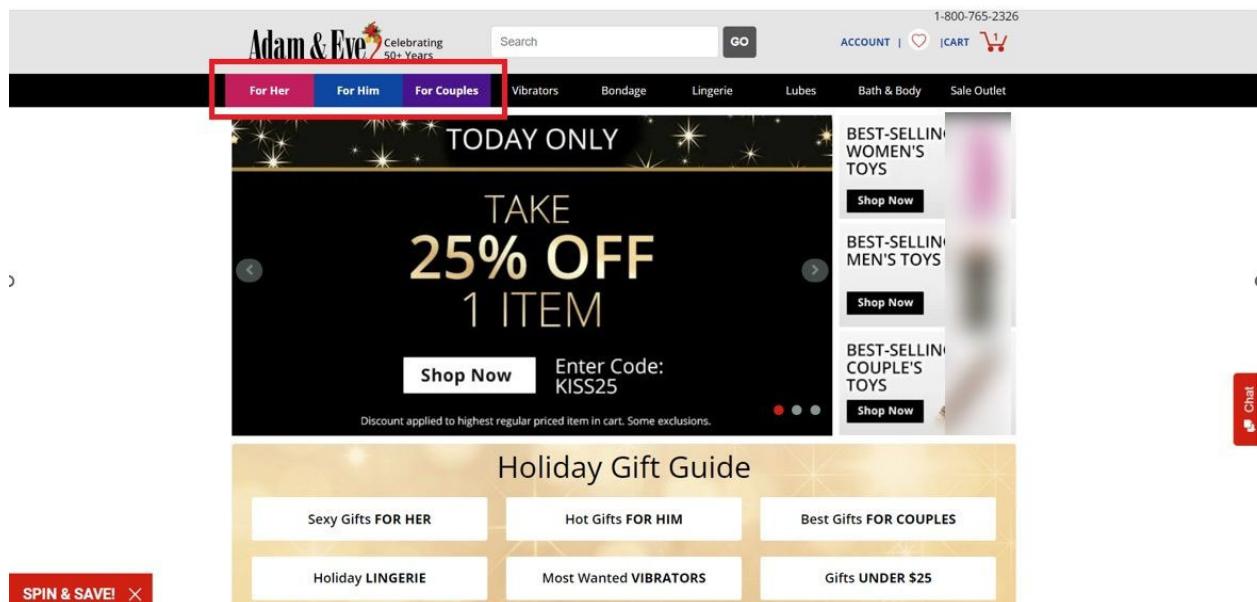
28 + connection: keep-alive

29 + content-length: 0

30 + host: www.google-analytics.com

31 + origin: https://www.adameve.com

1 30. Consumers are able to choose between different categories and different adult
2 products.



Top Categories

Vibrators

Clit Vibes, Rabbit Vibes
G-Spot Vibes, Thrusting Vibes
Wand Massagers



Lingerie

Plus Size, Lingerie Sets
Babydolls, Teddies,
Crotchless & Open Cup

Sex Toys

Dildos, Anal Sex Toys,
Bondage, Toy Kits,
Toys For Couples



Bath & Body

Bath & Shower,
Beauty, Sensual Massage,
Organic, Romance Kits

Women's Sex Toys

Ben Wa Balls, Sex Machines
Nipple Toys, Vibrating Panties
Best Toys For Women



Men's Sex Toys

Masturbators, Penis Rings,
Prostate Toys, Penis Pumps,
Best Toys For Men



Bondage

Restraints, Bondage Kits,
Blindfolds, Fetish Wear,
Paddles & Whips

Best Sellers

New Arrivals

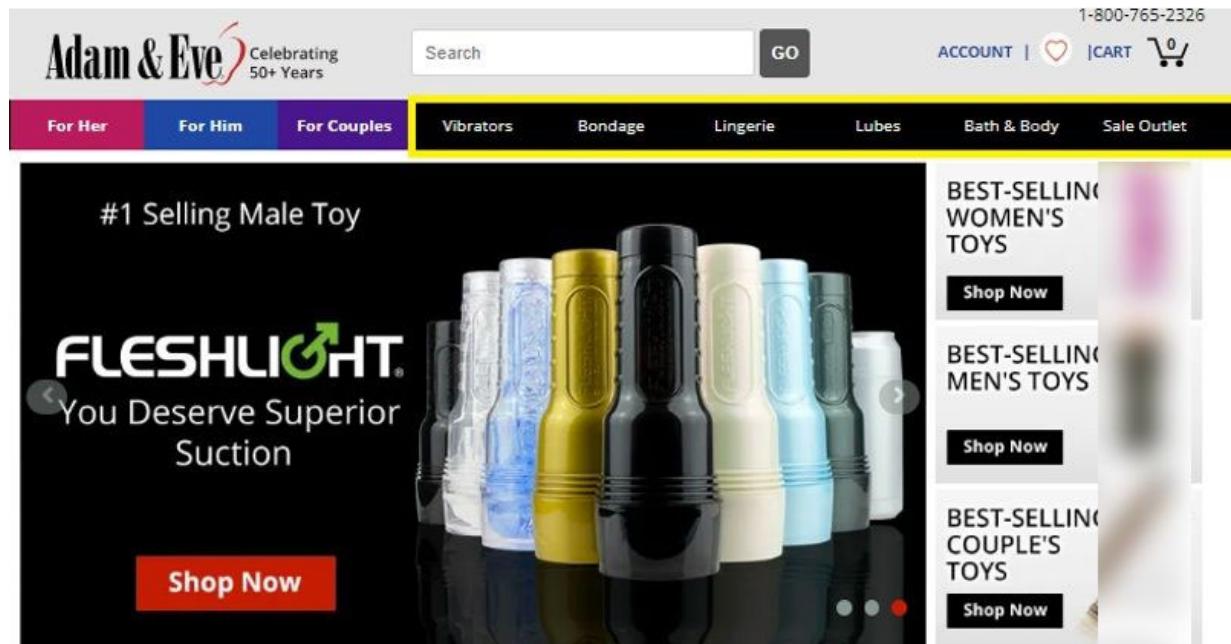
Find a Store

Own a Store

111

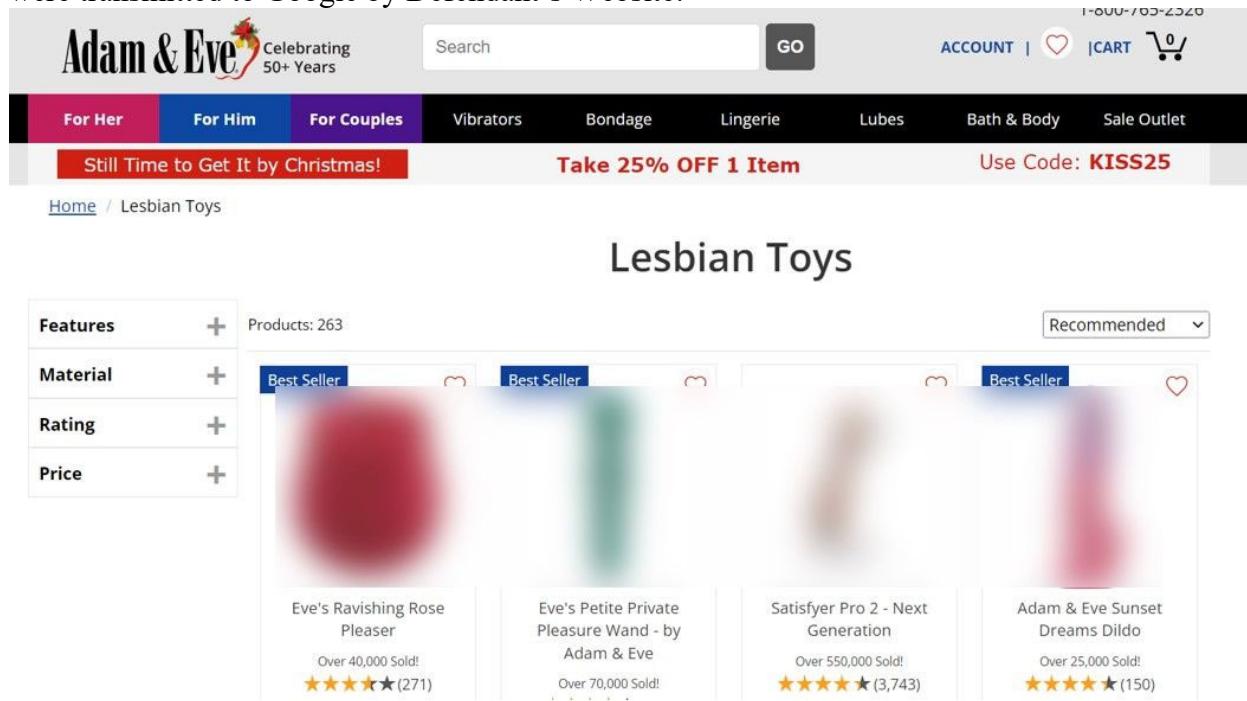
111

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11 Adam & Eve empowers people to explore sex and their sexuality in a safe, inclusive, and welcoming environment. We believe
 12 sexual pleasure is a healthy and important part of life that should be understood and celebrated. More than a sex toy
 13 company, we're your trusted partner in helping you become your sexiest self.

14 31. As illustrated in the images below, the specific categories the consumer viewed
 15 were transmitted to Google by Defendant's Website:



1 r General

2 Request URL: https://www.google-analytics.com/collect?v=1&_v=j98&a=1921779299&t=pageview&_s=1&d1=https%3A%2F%2Fwww.adamev

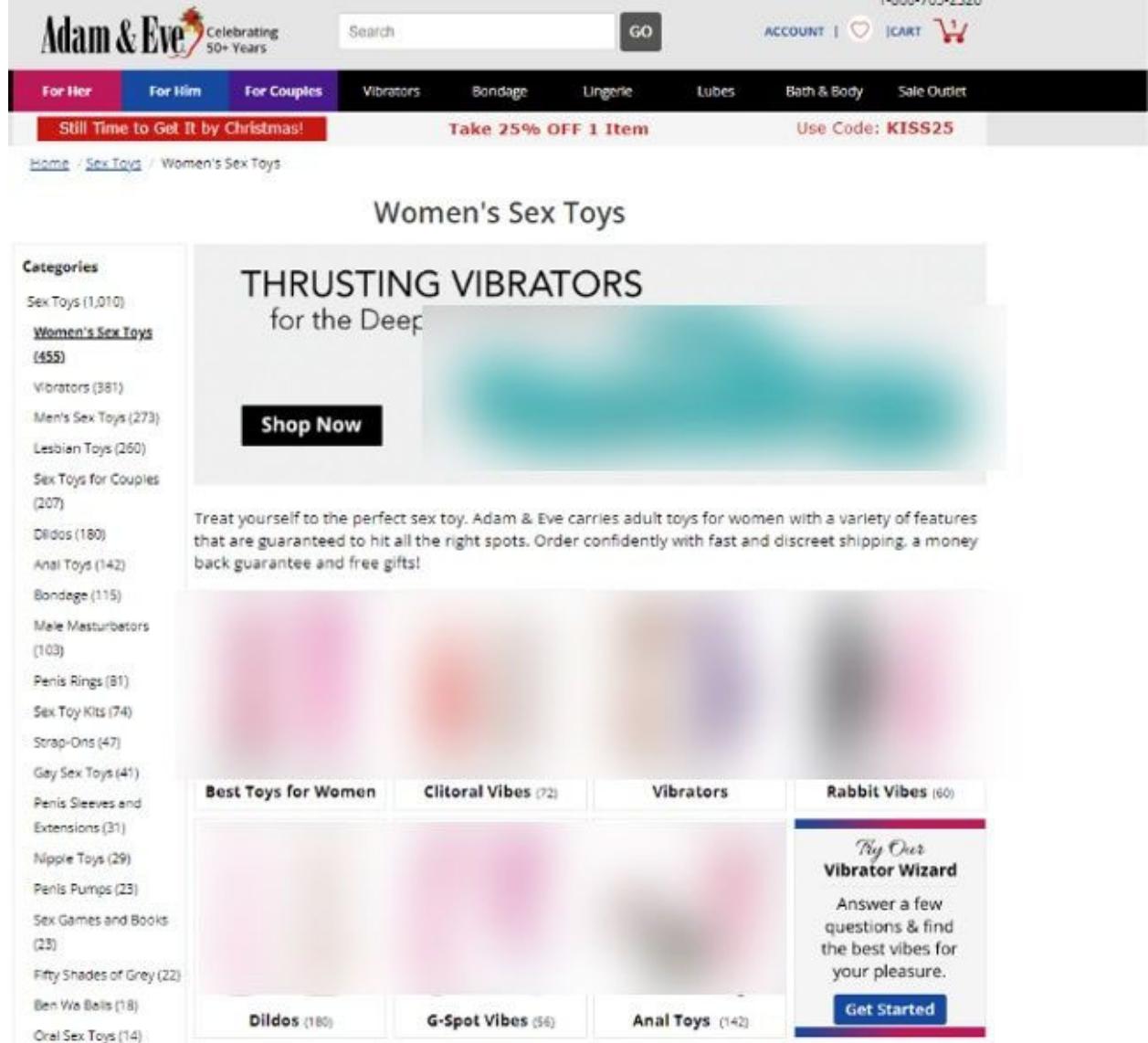
3 e.com%2Flanding%2Fpromo%2Flesbian-toys%3Fst%3Dlesbian&ul=en-us&de=UTF-8&dt=Lesbian%20Toys&sd=24-bit&sr=1536x864&vp=536x571&

4 je=0&_u=SCCAEALAAAAAGgOI~&jid=1630498034&gjid=1331750785&cid=1302355991.1671549814&tid=UA-1283698-1&_gid=422031894.1671549

5 814&r=1&_slc=1&z=511524782

6 Request Method: POST

7 Status Code: 200

8 
 A screenshot of the Adam & Eve website. The header features the Adam & Eve logo with a 50th anniversary banner, a search bar, and account/cart links. A banner at the top says "Still Time to Get It by Christmas!" and "Take 25% OFF 1 Item" with a "Use Code: KISS25" button. The main navigation menu includes "For Her", "For Him", "For Couples", "Vibrators", "Bondage", "Lingerie", "Tubes", "Bath & Body", and "Sale Outlet". Below the menu, a breadcrumb trail shows "Home / Sex Toys / Women's Sex Toys". The main content area is titled "Women's Sex Toys" and features a large banner for "THRUSTING VIBRATORS for the Deep" with a "Shop Now" button. To the left is a sidebar with a "Categories" section listing various sex toy types with their counts: Sex Toys (1,010), Women's Sex Toys (455), Vibrators (381), Men's Sex Toys (273), Lesbian Toys (260), Sex Toys for Couples (207), Dildos (180), Anal Toys (142), Bondage (115), Male Masturbators (103), Penis Rings (81), Sex Toy Kits (74), Strap-Ons (47), Gay Sex Toys (41), Penis Sleeves and Extensions (31), Nipple Toys (29), Penis Pumps (23), Sex Games and Books (23), Fifty Shades of Grey (22), Ben Wa Balls (18), and Oral Sex Toys (14). Below the sidebar are buttons for "Best Toys for Women", "Clitoral Vibes (72)", "Vibrators", and "Rabbit Vibes (60)". A sidebar on the right says "By Our Vibrator Wizard" and "Get Started".

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1 METHOD: POST +
2
3 URL
4
5 + https://www.google-analytics.com/j/collect?v=1&_v=j98&a=136844
6 3182&t=pageview&_s=1&d1=https%3A%2F%2Fwww.adameve.com%2Fadult-se
7 x-toys%2Fwomens-sex-toys-ch-955.aspx&ul=en-us&de=UTF-8&dt=Sex%20
8 Toys%20For%20Women%20Vibrators%2C%20Dildos%20%26%20More%20%7
9 C%20Adam%20%26%20Eve&sd=24-bit&sr=1536x864&vp=1519x746&je=0&_u=Q
10 CCAAEABAAAAACgCI~&jid=&gid=&cid=725432500.1671554204&tid=UA-128
11 3698-1&_gid=1002262072.1671554204&_slc=1&z=28688700
12
13 HEADERS
14
15 + accept:          /*/
16 + accept-encoding: gzip, deflate, br
17 + accept-language: en-US, en; q=0.9
18 + connection:      keep-alive
19 + content-length:  0
20 + content-type:    text/plain
21 + host:            www.google-analytics.com
22 + origin:          https://www.adameve.com
23 + referer:         https://www.adameve.com/
24 + sec-ch-ua:        "Not?A_Brand";v="8", "Chromium";v="108",
25           "Google Chrome";v="108"
26
27
28
```

32. Thereafter, PHE's Website shared with Google the specific sex toys selected by the consumer.

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1 METHOD: POST +
2
3 URL
4 + https://www.google-analytics.com/j/collect?v=1&_v=j98&a=175759
5 6143&t=p&ev=ewa&s=1&oi=https%3A%2F%2Fwww.adameve.com%2Fadult-se
6 x-toys%2Fdildo-sex-toys-ch-1012.aspx&ul=en-us&de=UTF-8&dt=Dildo
7 s%20%7C%20buy%20in%20best%20Dildo%20%7C%20Adam%20%26%20Eve%20Se
8 x%20Toy%20Store&sd=24-bit&sr=1536x864&vp=1519x746&je=0&_u=SCCAE
9 ALAAAAACg0I~&jid=&gid=&cid=725432500.1671554204&tid=UA-1283698-
10 1&_gid=1002262072.1671554204&_slc=1&z=2081794116
11
12 HEADERS
13 + accept:          */
14 + accept-encoding: gzip, deflate, br
15 + accept-language: en-US, en; q=0.9
16 + connection:      keep-alive
17 + content-length:  0
18 + content-type:    text/plain
19 + host:             www.google-analytics.com
20 + origin:           https://www.adameve.com
21 + referer:          https://www.adameve.com/
22 + sec-ch-ua:        "Not?A_Brand";v="8", "Chromium";v="108",
23   "Google Chrome";v="108"
24
25
26
27
28
```

Adam & Eve Celebrating 50+ Years

Search ACCOUNT | 1

For Her For Him For Couples Vibrators Bondage Lingerie Lubes Bath & Body Sale Outlet

Still Time to Get It by Christmas! Take 25% OFF 1 Item Use Code: KISS25

Home / Sex Toys / Dildos / Realistic Dildos

Realistic Dildos

Super Size It!

Our Longest & Thickest Realistic Dildos

[Shop Now](#)

Get Customer Favorites at a Great Value!



Product	Rating	Price
Adam & Eve Pink Jelly Slim Dildo	★★★★★	\$12.95
Lollicocks 6 Inch Slim Stick	★★★★★	\$17.95
XS 5 Inch Dildo with Suction Cup	★★★★★	\$18.95
Adam & Eve My First Willy	★★★★★	\$19.95

Products: 92 Recommended

[Best Seller](#) [Best Seller](#) [Best Seller](#) [Best Seller](#)

Adam & Eve Sunset Dreams Dildo Over 25,000 Sold!	Adam & Eve Cool Curve Jelly Dildo Over 70,000 Sold!	Adam's Silicone Dildo - by Adam & Eve Over 55,000 Sold!	Adam & Eve Chubby Fun Vibe Stuffer
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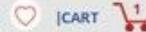
111

```
1 METHOD: POST +
2
3 URL
4 + https://www.google-analytics.com/j/collect?v=1&_v=j98&a=100310
5 129&t=pageview&s=1&dt=https%3A%2F%2Fwww.adameve.com%2Fadult-sex
6 -toys%2Fdildo-sex-toys%2Frealistic-dildos%2Fsp-adam-eve-pink-jel
7 ly-slim-dildo-91011.aspx&ul=en-us&de=UTF-8&dt=Pink%20Jelly%20Sli
8 m%20Dildo%20-%20Dildos%20%C2%20Adam%20%26%20Eve&sd=24-bit&sr=153
9 6x864&vp=2278x1118&je=0&_u=QCCAAEABAAAAACgCI~&jid=2138824189&gji
10 d=516105928&cid=725432500.1671554204&tid=UA-1283698-1&_gid=10022
11 62072.1671554204&_r=1&_slc=1&z=877039351
12
13 HEADERS
14
15 + accept: */*
16 + accept-encoding: gzip, deflate, br
17 + accept-language: en-US,en;q=0.9
18 + connection: keep-alive
19 + content-length: 0
20 + content-type: text/plain
21 + host: www.google-analytics.com
22 + origin: https://www.adameve.com
23 + referer: https://www.adameve.com/
24 + sec-ch-ua: "Not?A_Brand";v="8", "Chromium";v="108",
25 "Google Chrome";v="108"
26
27
28
```

33. Additionally, PHE's website shared with Google that the consumer added the sex toy to the cart and checked out.

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1  Search: GO

2 ACCOUNT | 

3 For Her For Him For Couples Vibrators Bondage Lingerie Lubes Bath & Body Sale Outlet

4 Still Time to Get It by Christmas! Take 25% OFF 1 Item Use Code: KISS25

5 Home / Sex Toys / Dildos / Realistic Dildos

6 **Adam & Eve Pink Jelly Slim Dildo**

7 Item #136M

8 

9  In Stock Over 100,000 Sold!

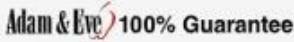
10  821 Reviews

11 **\$12.95**

12  Pay only **\$9.71**

13 When you use code KISS25 at checkout [Details](#)

14  Get a Free Mystery Gift at \$17+ [Select in Cart](#)

15 

16 [Description](#) [Details](#) [Reviews](#) You May Also Like

17 **Product Description**

18 The Perfect Goes Anywhere, Does Anything Dildo!

19 Slender, flexible and seductive! It's 6" long and 1" wide for easy vaginal play and anal exploration. Dip it into your favorite love zone! Wide base makes it easier to hold onto. Veined details pop out and stimulate! Molded from super flexible TPR material. Realistic looking! Perfect for anal beginners, be sure to use with water-based lube.

20  Adam & Eve Pink Jelly

21  Realistic Dildo

22  \$24.95

23 

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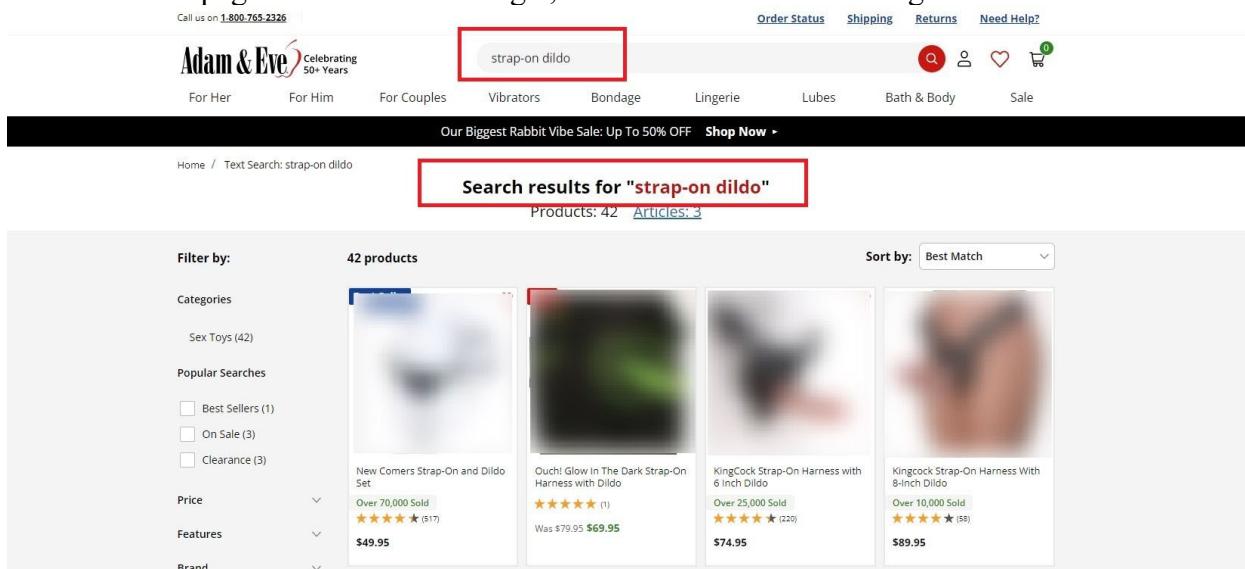
28 

```

1 METHOD: POST +
2 URL
3 + https://www.google-analytics.com/g/collect?v=2&tid=G-9EEVV2EFZ
4 &gtm=2oebu08_p=1407130527&c1d=25432500.1671554204&ul=en-us&sr=
5 1536x864&uaa=x86&uab=64&uafvl=Not%253FA_Brand%3B8.0.0.%07CChromi
6 um%3B108.0.5359.124%7CGoogle%2520Chrome%3B108.0.5359.124&uamb=0&
7 uam=&uap=Windows&uapv=14.0.0.&uaw=0&s=1&uid=2d3039f7-fef4-4bf0-b
8 e1a-00d653ad68be&sid=1671554209&scrt=1&seg=1&dl=https%3A%2F%2Fww
9 w.adameve.com%2Fsignin.aspx%31checkout%3Dtrue&dr=https%3A%2F%2Fww
10 ww.adameve.com%2Fshoppingcart.aspx&dt=Adam%20%26%20Eve%20Sex%20T
11 oy%20Store%20%7C%20%231%20Source%20for%20Adult%20Toys%20Online&
12 n=page_view&up.userID=2d3039f7-fef4-4bf0-be1a-00d653ad68be
13
14 HEADERS
15 + accept: */*
16 + accept-encoding: gzip, deflate, br
17 + accept-language: en-US, en;q=0.9
18 + connection: keep-alive
19 + content-length: 0
20 + host: www.google-analytics.com
21 + origin: https://www.adameve.com
22 + referer: https://www.adameve.com/
23 + sec-ch-ua: "Not?A_Brand";v="8", "Chromium";v="108",
24 "Google Chrome";v="108"

```

34. Also notable, any information submitted by consumers through the search bar on the site's homepage is shared with Google, as demonstrated in the images below:



1 Request URL: https://www.google-analytics.com/j/collect?v=1&_v=j99&a=746418084&t=pageview&_s=1&dl=https%3A%2F%2Fwww.adameve.com%2Fsearch.aspx%3Fst%3Dstrap-on%2520dildo&ul=he-il&de=UTF-8&dt=Sex%20Toys%20by%20adameve.com%20-%20Adult%20Sex%20Toys%20E2%80%93%20Sex%20Toys%20for%20Couples%20-%20strap-on%2Bdildo&ul=24-bit&sr=1536x864&vp=712x697&je=0&_u=SCCAAEALAAAAACg0I~&jid=&gjid=&cid=1132847793.1678209859&tid=UA-1283698-1&_gid=106492676.1680425479&_slc=1&z=567301132

2 Request Method: POST

3 Status Code: 200

4 Remote Address: 142.250.190.142:443

5 Referrer Policy: strict-origin-when-cross-origin

6

7

8 Call us on [1-800-765-2326](tel:1-800-765-2326)

9 [Order Status](#) [Shipping](#) [Returns](#) [Need Help?](#)

10  Celebrating 50+ Years

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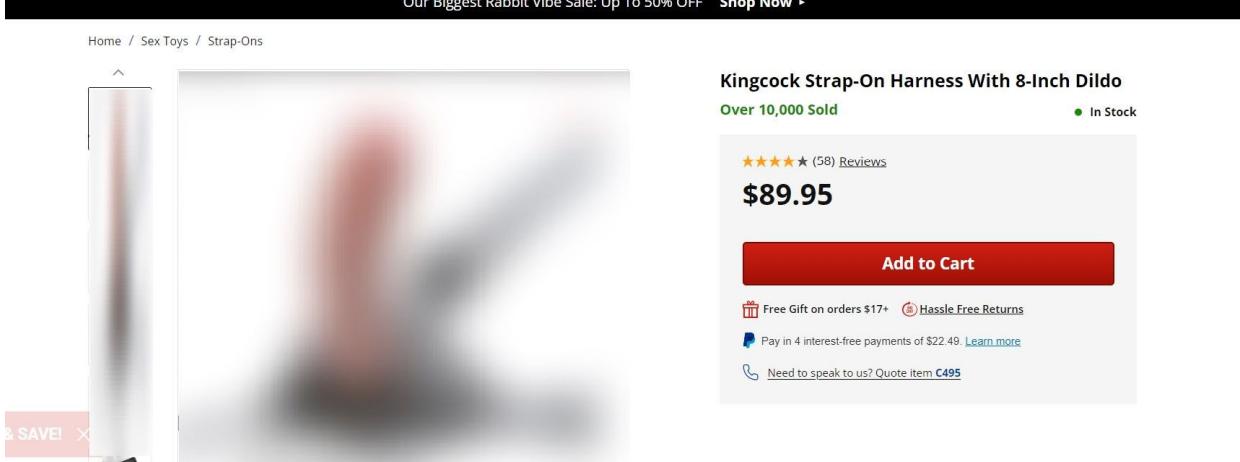
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19 Request URL: https://www.google-analytics.com/collect?v=1&_v=j99&a=1961219371&t=pageview&_s=1&dl=https%3A%2F%2Fwww.adameve.com%2Fadult-sex-toys%2Fstrap-on-sex-toys%2Fstrap-on-kingcock-strap-on-harness-with-inch-dildo-106459.aspx&ul=he-il&de=UTF-8&dt=Product%20Details%20C495&sa=24-bit&sr=1536x864&vp=711x697&je=0&_u=SCCAgAALAAAAACg0~&jid=361481224&gjid=417139221&cid=1132847793.1678209859&tid=UA-1283698-9&_gid=106492676.1680425479>m=45He33t0n7156RXBQ&cd16=73745%3A2420526&cd14=Product&cd15=38fe5d40-09ab-45b1-b8f9-efb00767e3c1&cd17=AE-Product%20Details%3A%20C495&cd18=WEBGEN1&cd19=GN&z=1214920245

Request Method: GET

Status Code: 200

Remote Address: 142.250.190.142:443

Referrer Policy: strict-origin-when-cross-origin

35. The above information, combined with the consumer's IP address, enables Google to identify the person who has interacted with PHE's Website or has submitted information through the site.

36. Website consumers did not know that the communications between them and PHE would be shared with a third party, Google.

37. PHE did not obtain consent or authorization of Website consumers to disclose communications about their Private and Protected Sexual Information.

38. The surreptitious disclosure of Private and Protected Sexual Information is an outrageous invasion of privacy and would be offensive to a reasonable person.

California Invasion of Privacy Act

39. In recognition of this, the Legislature passed the CIPA “to protect the right of privacy of the people of this state.” Cal. Penal Code § 630.

40. Section 631 of the CIPA prohibits *inter alia*

- a. Aiding or permitting a third party to read or learn the contents of any message, report, or communication that is in transit or passing over any wire, line, or cable, or is being sent from or received at any place within California, without the consent of all parties to the message, report, or communication;
- b. Reading or attempting to read or to learn the contents of any message, report or communication while the same is in transit or passing over any wire line, or cable without the consent of all parties to the message, report or communication;
- c. Using or attempting to use, in any manner or for any purpose, any information obtained from any message, report or communication read while the same is in transit or passing over any wire line, or cable without the consent of all parties to the message, report or communication; and
- d. Aiding, agreeing with, employing or conspiring with any person or persons to unlawfully do, or permit, or cause the disclosure, learning, reading, and usage

1 of any communications set by wire in California without the consent of all
2 parties to the message, report or communication.

3 41. Internet communications pass over a wire, line, and/or cable.

4 42. Using a website and entering information on a website are messages, reports, and/or
5 communications between the website user and website developer, owner, and/or operator.

6 43. Such messages, reports, and/or communications are transmitted or passed over a
7 wire, line, or cable.

8 44. Where a website user or a website developer, owner, or operator is based in
9 California, the message, report, or communication is sent from and/or received in California.

10 45. When someone uses a website and enters information on that website, the sole
11 parties to that message, report, or communication are the website user and the website developer,
12 owner, or operator.

13 46. It is a violation of section 631 of the CIPA to allow someone other than the website
14 user or website developer, owner, or operator to read or learn the contents of messages, reports, or
15 communications between those parties without the consent of all parties.

16 47. It is a violation of section 631 of the CIPA to read or learn the contents of messages,
17 reports, or communications between website users and developers, owners or operators without
18 the consent of all parties.

19 48. It is a violation of section 631 of the CIPA to use information contained in
20 messages, reports, or communications between website users and developers, owners or operators
21 without the consent of all parties.

22 49. It is a violation of section 631 of the CIPA to aid, agree with, employ or conspire
23 with another to unlawfully read, learn or use information contained in messages, reports, or
24 communications between website users and developers, owners or operators without the consent
25 of all parties.

26 50. When someone violates section 631 of the CIPA, the aggrieved party may bring a
27 civil action for \$5,000 per violation pursuant to section 637.2(a)(1) of the CIPA.

51. Pursuant to section 637.2(b) of the CIPA, the aggrieved party may also seek injunctive relief to enjoin and restrain the violative conduct.

52. Pursuant to section 637.2(c) of the CIPA, “it is not a necessary prerequisite to an action pursuant to this section that the plaintiff has suffered, or be threatened with, actual damages.”

Plaintiff's Use of PHE's Website

53. Plaintiff is a consumer who has purchased adult products from PHE's website.

54. Plaintiff created an account in or around 2018.

55. Plaintiff has used PHE's website on numerous occasions to search for and purchase adult products.

56. Plaintiff purchased products from PHE's website on at least two occasions, most recently in 2022.

57. This included searching for adult products.

58. Plaintiff's use of the Website constitutes internet messages, reports, and/or communications between Plaintiff and Defendant PHE.

59. Those internet messages, reports, and/or communications were transmitted and passed over a wire, line, or cable.

60. Those messages, reports, and/or communications were sent from and received in California.

61. Upon information and belief, Google and PHE had an agreement whereby, through the use of Google Analytics, PHE would automatically send Google information pertaining to Plaintiff's use of the Website.

62. Each time Plaintiff used PHE's website, PHE willfully disclosed Plaintiff's Private and Personal Sexual Information, the items she searched for, search terms she entered on the Website, products she placed in her cart, and products she purchased to Google via Google Analytics.

63. This information was instantly disclosed to Google when Plaintiff entered the Website and tracked and disclosed to Google everything Plaintiff did on PHE's Website.

64. Google is not a party to the messages, reports, or communications between Plaintiff and PHE.

65. Plaintiff did not know the messages, reports, or communications between herself and PHE would be disclosed to Google.

66. Plaintiff did not know that her Private and Personal Sexual Information and IP address would be shared, used, sold or otherwise disclosed to Google.

67. Plaintiff did not consent to the messages, reports, or communications between herself and PH being shared with Google.

CLASS ALLEGATIONS

A. Definition of the Class

1. Plaintiff brings this action individually and on behalf of all persons as the Court may determine to be appropriate for class certification, pursuant to California Code of Civil Procedure § 382. Plaintiffs seek to represent a Class of persons defined as:

All California residents who have visited the Website, navigated through the Website's pages, entered search terms on the Website, and/or purchased adult products on the Website.

The definition is subject to modification as discovery will disclose further information. Plaintiff reserves the right to propose one or more sub-classes if discovery reveals that such subclasses are appropriate.

2. This case is properly maintainable as a class action pursuant to and in accordance with California Code of Civil Procedure § 382 in that:

- a. The Class, which includes thousands of members, is so numerous that joinder of all members is impracticable;
- b. There are substantial questions of law and fact common to the class including those set forth in greater particularity herein;

- c. Questions of law and fact such as those enumerated below, which are all common to the class, predominate over any questions of law or fact affecting only individual members of the class;
- d. A class action is superior to any other type of action for the fair and efficient adjudication of the controversy;
- e. The relief sought in this class action will effectively and efficiently provide relief to all members of the class; and,
- f. There are no unusual difficulties foreseen in the management of this class action; and
- g. Plaintiff, whose claim is typical of those of the Class, through her experienced counsel, will zealously and adequately represent the Class.

B. Numerosity

3. There are thousands of individuals who have used the Website and have searched for adult products in California. Accordingly, the Class Members are so numerous that joinder of all parties is clearly impracticable.

4. The prosecution of separate lawsuits by Class Members would risk inconsistent or varying adjudications. Class-wide adjudication of these claims is, therefore, appropriate.

C. Commonality

5. These numerous common questions of law and fact predominate over any individual questions affecting Class Members, including, but not limited to the following:

a. Whether PHE collected information about Class Members who used the Website;

- b. Whether that information constitutes messages, reports, or communications under CPA § 631;
- c. Whether PHE disclosed the messages, reports, or communications between PHE and the Class Members who accessed the Website;
- d. Whether PHE and Google had an agreement whereby PHE installed Google Analytics to disclose Class Members' search history and other information in exchange for payment or another form of consideration;
- e. Whether Google read, learned, and/or utilized the information it obtained about Class Members' use of PHE's Website from PHE;
- f. How Class Members' messages, reports, communications, and Private and Personal Sexual Information was disclosed and to whom; and
- g. Whether Defendant obtained consent or authorization before disclosing Class Members' messages, reports, communications or Private and Personal Sexual Information.

D. Typicality

6. Plaintiff has the same interests in this matter as all the other members of the Class and her claims are typical of all members of the Class. If brought and prosecuted individually, the claims of each Class Member would require proof of many of the same material and substantive facts, utilize the same complex evidence including expert testimony, rely upon the same legal theories and seek the same type of relief.

7. The claims of Plaintiff and the other Class Members have a common cause and their damages are of the same type. The claims originate from the synonymous disclosure, reading, learning of, and utilizing messages, reports, or communications by Defendants without consent.

1 8. All Class Members have been aggrieved by Defendants' disclosure, reading,
2 learning and utilizing the information contained within their messages, reports, or communications
3 without consent and are entitled to, *inter alia*, statutory damages.

4 **E. Adequacy of Representation**

5 9. Plaintiff's claims are sufficiently aligned with the interests of the absent Class
6 Members to ensure that the Class' claims will be prosecuted with diligence and care by Plaintiff
7 as representative of the Class. Plaintiff will fairly and adequately represent the interests of the
8 Class and does not have interests adverse to the Class.

9 10. Plaintiff has retained the services of counsel who are experienced in complex class
10 action litigation and in particular class actions stemming from data privacy claims. Plaintiff's
11 counsel will vigorously prosecute this action and will otherwise protect and fairly and adequately
12 represent Plaintiff and all absent Class Members.

13 **F. Class Treatment Is the Superior Method of Adjudication**

14 11. A class action is superior to other methods for the fair and efficient adjudication of
15 the controversies raised in this Complaint because:

16 a. Individual claims by the Class Members would be impracticable as the costs of
17 pursuit would far exceed what any one Class Member has at stake;

18 b. Little or no individual litigation has been commenced over the controversies alleged
19 in this Complaint and individual Class Members are unlikely to have an interest in
20 separately prosecuting and controlling individual actions;

21 c. The concentration of litigation of these claims in one action will achieve efficiency
22 and promote judicial economy; and

23 d. The proposed class action is manageable.

24 12. The prosecution of separate actions by or against individual members of the Class
25 would create the risk of (i) inconsistent or varying adjudications with respect to individual

1 members of the Class, which could establish incompatible standards of conduct for the party
2 opposing the Class; and (ii) adjudications with respect to individual members of the Class
3 which would as a practical matter be dispositive of the interests of the other members not parties
4 to the adjudications or substantially impair or impede their ability to protect their interests.

5 13. Notice can be provided to members of the Class by U.S. Mail and/or publication.

6 14. Class treatment of Plaintiffs' claims is appropriate and necessary.

7

8 **I. CAUSES OF ACTION I**

9 **AGAINST DEFENDANT PHE, INC.**

10 **VIOLATION OF THE CALIFORNIA INVASION OF PRIVACY ACT**

11 1. Plaintiff restates all allegations of this Complaint as if fully restated herein.
12 2. The Plaintiff and/or Class are located in California.
13 3. Defendant PHE, through its Website, is engaged in the business of selling adult
14 products to the Plaintiff and Class.

15 4. The Plaintiff and Class used Defendant's Website to search for and/or purchase
16 adult products.

17 5. When Plaintiff and the Class used the Website, they were messaging, reporting,
18 and/or communicating with PHE.

19 6. Those messages, reports, and/or communications were transmitted or passed over
20 a wire, line, or cable, and were sent and/or received within California.

21 7. Defendant PHE willfully disclosed the messages, reports, and/or communications
22 with Google via Google Analytics.

23 8. By doing so, PHE willfully aided and permitted Google, a third-party, to read and
24 learn of the messages, reports, and/or communications between the Plaintiff/Class and PHE.

25 9. The Plaintiff and Class were not aware that PHE was disclosing their messages,
26 reports, and/or communications to Google.

27 10. The Plaintiff and Class did not consent to PHE sending or permitting Google to
28 read or learn about the messages, reports, or communications between them and PHE.

11. PHE is liable to the Plaintiff and Class for statutory damages of \$5,000 for each time it disclosed a message, report, or communication to Google without consent.

II. CAUSE OF ACTION II

AGAINST DEFENDANT GOOGLE LLC

VIOLATION OF THE CALIFORNIA INVASION OF PRIVACY ACT

15. Plaintiff restates the allegations set forth in all previous paragraphs of this Complaint as if fully rewritten herein.

16. The Plaintiff and/or Class are located in California.

17. Defendant Google is the owner/operator of Google Analytics, a platform that collects data from websites and apps to create reports that provide insights into a website's business.

18. The Plaintiff and Class used PHE's Website to search for and/or purchase adult products.

19. PHE and Google had an agreement whereby Google Analytics was installed onto PHE's Website in exchange for payment or some other consideration.

20. When Plaintiff and the Class used PHE's Website, they were communicating with Defendant PHE, but were unaware and never consented to those communications being shared with Defendant Google LLC.

21. Defendant Google willfully obtained the messages, reports, and/or communications of Plaintiff's and the Class's via Google Analytics without their knowledge and consent.

22. Defendant Google read, learned from, and utilized the messages, reports, and/or communications of Plaintiff's and the Class's to PHE via Google Analytics without their knowledge and consent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the proposed Class, prays for judgment as follows:

A. Certification of the proposed Class pursuant to California Code of Civil Procedure § 382 and California Rules of Court Rule 3.764;

- B. Designation of Plaintiff as representative of the proposed Class and designation of her counsel as Class Counsel;
- C. Judgment in favor of Plaintiff and the Class Members and against Defendants;
- D. An award, to Plaintiff and each Class Member for statutory damages of \$5,000 for each time Defendant PHE, Inc. disclosed a message, report, or communication to a third party without consent, pursuant to the CIPA;
- E. An award, to Plaintiff and each Class Member for statutory damages of \$5,000 for each time Defendant Google LLC read, learned the contents of, and/or utilized information obtained from a message, report, or communication between PHE and the Class without consent, pursuant to the CIPA;
- F. An award of attorney fees and costs, including pre- and post-judgment interest;
- G. An Order holding that Defendant PHE's disclosure of the Plaintiff's and Class's messages, reports, and/or communications was in violation of the CIPA;
- H. An Order holding that Defendant Google's review of the Plaintiff's and Class's messages, reports, and/or communications was in violation of the CIPA; and
- I. Such further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury.

Dated: January 3, 2024

ARIAS SANGUINETTI WANG & TEAM LLP

By:

MIKE ARIAS, ESQ.
ARNOLD C. WANG, ESQ.
M. ANTHONY JENKINS, ESQ.

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NICHOLAS A. COULSON, ESQ.*
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* *Pro Hac Vice* applications to be submitted

Attorneys for Plaintiffs and the Putative Class